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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Equal Access and Interconnection )  
Obligations Pertaining to )  
Commercial Mobile Radio Services )

CC Docket No. 94-54

To: The Commission

COMMENTS  
OF THE  
NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.

Respectfully submitted,

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### SUMMARY

The National Association of Business and Educational Radio, Inc. ("NABER") respectfully submits its Comments in response to the Notice of Proposed Rule Making and Notice of Inquiry ("NPRM") issued by the Federal Communications Commission in the above-captioned proceeding.

NABER believes that the focus of the Commission in this proceeding should be on broadband CMRS services. NABER agrees with the Commission's initial determination that equal access should not apply to paging and other forms of narrowband CMRS, as such requirements are unnecessary. NABER believes that the same finding should apply to two-way services, such as traditional SMR systems, 220 MHz systems and 450-512 MHz two-way systems on Business Radio channels.

Clearly, SMR operators do not control a "bottleneck" facility, and the rationale for the imposition of equal access requirements on Bell Operating Companies ("BOCs") is non-existent in the SMR Service. NABER agrees with the Commission that an analysis of "market power" is relevant to consideration of whether imposing equal access obligations would serve other policy goals of the Commission and NABER also agrees with the Commission that CMRS providers (other than cellular providers) lack such market power.

Imposition of equal access obligations can have such a substantial cost for smaller carriers that competition may actually be reduced. For example, on traditional SMR systems, interconnected traffic is typically a small portion of the actual

traffic on the system. Long distance traffic on the system is even a smaller portion. Thus, SMR end users care first and foremost about signal quality, coverage area, and monthly cost. Equal access is typically not a user concern on SMR systems. However, the additional equipment and telephone lines which equal access would require can result in a significant cost of end users. Thus, there would be little, if any, benefit for the SMR customer from equal access.

NABER opposes mandatory interconnection between CMRS providers and CMRS carrier resale obligations as applied to SMR systems. Since typical SMR customers utilize interconnected service as an adjunct to dispatch service, mandatory interconnection is unnecessary to ensure access to the public switched network. Certainly such a requirement is premature with regard to wide-area SMR systems.

At this time, there is no basis to impose carrier resale obligations on SMR operators. The limited capacity of SMR systems mandates a high degree of user management by SMR operators. Mandatory resale obligations can thwart the best efforts of small SMR businesses to effectively manage their customer bases. NABER believes that mandatory resale is unnecessary for SMR systems as the systems do not have market power, offer a limited interconnect service, do not control a bottleneck, and customers have many alternatives for service.

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COMMENTS  
OF THE  
NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.

The National Association of Business and Educational Radio, Inc. ("NABER") by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, respectfully submits its Comments in response to the Notice of Proposed Rule Making and Notice of Inquiry ("NPRM") issued by the Federal Communications Commission on July 1, 1994, in the above-captioned proceeding.<sup>1</sup>

I. BACKGROUND

A. The National Association of Business  
and Educational Radio, Inc.

Founded in 1965, NABER is a national, non-profit trade association headquartered in Alexandria, Virginia. NABER is committed to protecting, serving and leading members of the mobile communications industry in their endeavors to effectively and efficiently provide communications support to the U.S. business community. NABER represents businesses of all sizes from all

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<sup>1</sup>The Commission extended the deadline for Comments in this proceeding by Order released August 11, 1994. DA 94-877.

facets of the industry through its six specially focused membership sections: Association for Private Carrier Paging ("APCP"), Specialized Mobile Radio Alliance ("SMRA"), Association of Wireless Systems Integrators ("AWSI"), Site Owners and Managers Association ("SOMA"), Association of Communications Technicians ("ACT") and the User Section. NABER also represents industry suppliers such as manufacturers, and administers the industry's technician certification program.

**B. NABER As A Frequency Coordinator**

For the past 19 years, NABER has been the recognized frequency coordinator in the 450-470 MHz and 470-512 MHz bands for the Business Radio Service. NABER is also the Commission's recognized frequency coordinator for the 800 MHz and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

In its Report and Order in PR Docket No. 83-737, the Commission designated NABER as the frequency coordinator for all Business Radio Service frequencies below 450 MHz and, in a joint effort with the International Municipal Signal Association ("IMSA") and the International Association of Fire Chiefs ("IAFC"), the Special Emergency Radio Service frequencies.

Since 1993, NABER has been a Commission-certified Commercial Operator License Examination Manager ("COLE Manager"). NABER has established FCC Commercial Radio Operator License Test Locations throughout the United States and Puerto Rico. NABER is proud of its efforts to serve the public in this manner.

### C. The Commission's NPRM

In this proceeding, the Commission seeks comments on proposals to require "equal access"<sup>2</sup>, interconnection<sup>3</sup> and mandatory resale among Commercial Mobile Radio Service ("CMRS") providers and Local Exchange Carriers ("LECs") in a variety of situations. The Commission has requested comments on a number of issues, including the necessity and public interest value of imposing such requirements where the carrier in question does not control a "bottleneck" facility. In its Comments, NABER will focus on the effects of equal access and interconnection on small SMR operators which have been reclassified as CMRS by the Commission.

### II. COMMENTS

NABER believes that the focus of the Commission in this proceeding should be on broadband CMRS services. NABER agrees with the Commission's initial determination that equal access should not apply to paging and other forms of narrowband CMRS, as such requirements are unnecessary.<sup>4</sup> As demonstrated below, NABER believes that the same finding should apply to two-way services,

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<sup>2</sup>Equal access requirements for CMRS providers would require a CMRS operator to treat all interexchange carriers (IXCs) seeking access to the CMRS system equally. Thus, for example, end users on interconnected SMR systems could presubscribe to the long distance carrier of their choice.

<sup>3</sup>Mandatory interconnection would require CMRS providers to provide interstate interconnection to other CMRS providers.

<sup>4</sup>NPRM at para. 47.

such as traditional SMR systems, 220 MHz systems and 450-512 MHz two-way systems on Business Radio channels.<sup>5</sup>

Initially, it should be noted that throughout the NPRM the Commission discusses 800 MHz SMR systems, but typically mentions only "wide-area SMR systems" with little or no reference or distinction between wide-area SMR systems and traditional trunked SMR systems and conventional SMR systems. However, many of the proposals in this proceeding may have a severe, perhaps debilitating, impact on traditional SMR systems.<sup>6</sup>

The Commission must be aware of the significant number of SMR systems operating throughout the country which provide traditional dispatch service, with a small amount of interconnect traffic for occasional use. NABER's membership includes hundreds of operators that operate in this manner. The traditional SMR Operator is a small business operator with little ability to control the offerings and obligations of LECs which provide connections to the SMR System (often reluctantly). In crafting regulatory policy, the Commission must be aware of this difference and ensure that any new rules adopted do not adversely impact such traditional SMR

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<sup>5</sup>In addition, as discussed below, NABER also believes that the Commission should refrain from imposing equal access requirements on all wide-area SMR systems.

<sup>6</sup>To the extent that NABER's Comments discuss "traditional" SMR systems, such comments equally apply to other formerly private carrier systems operating two-way facilities (220 MHz, 450 MHz, etc.) reclassified by the Commission as CMRS.

systems.<sup>7</sup> Therefore, NABER is fully supportive of the Commission's suggestion in paragraph 3 of the NPRM that equal access requirements should be tailored to meet the individual circumstances of particular mobile radio services.

Further, to the extent that there are some SMR providers seeking to upgrade and convert their systems to wide-area, cellular-like service, the Commission must keep in mind that this "ESMR" industry is new and undeveloped, with operators committing millions of dollars to converting analog systems. New rules adopted in this proceeding must not impede or delay the build-out and operational status of such systems, or the competitive marketplace that Congress and the Commission sought to foster will never be realized. The Commission must not burden a potentially competitive service and nascent industry with regulatory hurdles which only the most well-funded and entrenched competitors can meet.

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<sup>7</sup>In paragraph 16 of the Further Notice of Proposed Rule Making in GN Docket No. 93-253, the Commission recognizes that any apparent similarities between cellular systems and wide-area SMRs do not apply to the traditional SMR system. This distinction is missing from the NPRM in CC Docket No. 94-54. Traditional SMR systems may provide some measure of interconnection, however the interconnection is typically only half-duplex (push to talk) because of limited capacity. In other respects, the traditional SMR system differs in other ways from cellular systems. The small number of channels (compared to cellular), limited geographic area in which the channels are used and multiple service providers mandate a different regulatory policy than the cellular service.

#### A. Equal Access Requirements

Clearly, SMR operators do not control a "bottleneck" facility,<sup>8</sup> and the rationale for the imposition of equal access requirements on Bell Operating Companies ("BOCs") is non-existent in the SMR Service.<sup>9</sup> Therefore, for the Commission to require equal access for SMR systems, it must find another public interest rationale. NABER agrees with the Commission that an analysis of "market power" is relevant to consideration of whether imposing equal access obligations would serve other policy goals of the Commission.<sup>10</sup> NABER also agrees with the Commission's finding in the CMRS Second Report that CMRS providers (other than cellular providers) lack such market power.<sup>11</sup>

As noted by the Commission in paragraph 34 of the NPRM, imposition of equal access obligations can have such a substantial cost for smaller carriers that competition may actually be reduced. For example, on traditional SMR systems, interconnected traffic is typically a small portion of the actual traffic on the system. Long distance traffic on the system is even a smaller portion. Thus, in a similar fashion to the discussion in the Comments of "The Opposing Group",<sup>12</sup> SMR end users care first and foremost about

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<sup>8</sup>NPRM at para. 45.

<sup>9</sup>NPRM at para. 24.

<sup>10</sup>NPRM at para. 31.

<sup>11</sup>NPRM at para. 33, citing Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 (1994) ("CMRS Second Report").

<sup>12</sup>NPRM at para. 25.

signal quality, coverage area, and monthly cost. Equal access is typically not a user concern on SMR systems. Thus, there would be little, if any, benefit for the customer from equal access.

More importantly, however, SMR end users could be negatively impacted by the equal access requirement. By utilizing a single IXC, some SMR operators are able to negotiate more favorable rates than typically available to individual users. Therefore, an equal access requirement may actually ~~increase~~ the monthly costs of end users.<sup>13</sup>

To provide equal access, an SMR Operator would need to install dedicated lines for each IXC or provide a redial option for each customer to select their IXC of choice. Dedicated lines would add substantial cost to the SMR operation. In addition, many traditional SMR systems are located atop mountain sites in order to obtain sufficient system coverage. In such circumstances, it is often impossible to have additional telephone facilities provided by the LEC. Tripling (or quadrupling) the amount of lines available to the SMR operator in order to provide equal access would be cost prohibitive to the LEC and the SMR Operator in many such instances.

Further, all SMR operators which do not currently utilize switched equipment capable of "least cost routing" would need to buy new equipment at substantial cost in order to provide equal access. If the SMR Operator did not want to install dedicated

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<sup>13</sup>Previously, SMR systems (as private carriers) could not resell interconnected service. Therefore, IXC costs were passed through on a non-profit, cost-shared basis to customers.

lines for each IXC, substantial modifications would need to be made to SMR interconnect equipment (which is not currently available) at substantial cost. Such cost would be passed on to customers, negating any potential savings from being able to choose a particular carrier.

For wide-area SMR systems, Southwestern Bell urges the Commission to extend equal access requirements.<sup>14</sup> However, Nextel demonstrates that this requirement would not serve the public interest.<sup>15</sup> The Commission states that it believes that "... the service characteristics and capabilities of wide-area SMR systems will make them competitors to cellular providers..." and thereby favors the imposition of equal access obligations.<sup>16</sup> However, the fact is that such competition does not exist at this time, and may not exist in the future. If such competition develops, the Commission may elect to revisit the issue at that time, or on a case-by-case basis.

Further, as discussed in NABER's Comments in GN Docket No. 93-252, not all wide-area providers are created, or intended to be created, equal. For example, Geotek Communications ("Geotek"), a member of NABER's SMRA Council, is a wide area multi-channel SMR that seeks to provide traditional dispatch to business customers. Geotek intends to use a single high power transmitter rather than cellular-like low power interconnected cells to provide its

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<sup>14</sup>NPRM at para. 21.

<sup>15</sup>Id. at para. 22.

<sup>16</sup>NPRM at para. 45.

service, relying on Frequency Hopping Multiple Access ("FHMA") technology to achieve high capacity. Geotek does not have market power, and while the system will provide interconnected service, it will not have nearly the capacity necessary to become a "cellular competitor". Imposition of equal access obligations on operations such as Geotek's will only add costs for users and restrict competitive options.

Similarly, Racom Corporation, also a member of NABER's SMRA Council, has operated a wide area SMR System in the mid-west under authority from the Commission since the early 1980s. Racom proposes to install Ericsson-GE's "EDACS" system to upgrade its network. However, the Racom system is primarily a dispatch system, offering interconnect service only as an adjunct on a system which is used extensively by numerous public safety and oil/gas companies. Racom does not have sufficient capacity to compete with the local cellular companies and equal access obligations will only result in increased costs for Racom customers for a service option that the customers neither want or need.

**B. Mandatory Interconnection And CMRS  
Carrier Resale Obligations**

NABER opposes mandatory interconnection between CMRS providers and CMRS carrier resale obligations as applied to SMR systems. Since typical SMR customers utilize interconnected service as an adjunct to dispatch service (and such users have ample choices for service among providers if they are not satisfied with their current provider), mandatory interconnection is unnecessary to ensure access to the public switched network. Certainly such a

requirement is premature with regard to wide-area SMR systems. Further, few SMR end users have a need to communicate with a user on another SMR System. Thus, routing such calls through the LEC should not be too inefficient or expensive.

There are currently three (3) separate SMR platforms in common use which are not compatible. Requiring interconnection between platforms is technically possible, but would require a massive replacement of equipment for hundreds of SMR operators across the country. While some SMR operators have invested in new equipment to allow mobile radios on multiple platforms to "talk to one another" where the operator has multiple systems, requiring interconnection between numerous operators in the same market with the same platform would be technically complex and would not further any goal of the Commission. Further, since analog SMR systems do not currently have automatic "hand-off" capability (which could only be achieved by retrofitting hundreds of thousands of mobile radios with new chips) there is little value to requiring interconnection, as all interconnected calls with non-retrofitted mobiles would need to be reestablished when the mobile user travels to another service area.

Few customers of traditional SMR systems have the need for interconnected service beyond the service area of a single operator. Rather, such users typically require dispatch capabilities over a wide area. As discussed previously, traditional SMR systems offer a limited form of interconnection (usually half-duplex or "push to talk") and operators often attempt

to limit interconnect traffic in more urban areas where system crowding mandates limiting the longer interconnect call. Mandatory interconnection between CMRS providers will therefore provide little, if any, benefit to most SMR users.

It should be noted, however, that marketplace forces have caused many SMR operators with similar operating platforms to enter into voluntary agreements for roaming, although such roaming is on a manual, not automatic, basis for the end user. NABER suggests that the Commission permit such marketplace forces to determine whether such arrangements should proliferate.

Of the technologies announced for wide-area SMR systems, Geotek's FHMA technology, Motorola's MIRS technology, RAM's Mobitex technology and Ericsson/GE's EDACS technology are not compatible with one another. Interconnection between these platforms is also not possible.

At this time, there is no basis to impose carrier resale obligations on SMR operators. The limited capacity of SMR systems mandates a high degree of user management by SMR operators. Assignment of "home" channels (in LTR format SMR systems), control channels (in Motorola format systems), customer programming of group identification codes and dedication of certain channels for interconnect traffic must be carefully managed by the system operator. Mandatory resale obligations can thwart the best efforts of small SMR businesses to effectively manage their customer bases, and unscrupulous competitors could even use resale obligations to upset the delicate user balance which each operator must maintain.

NABER believes that mandatory resale is unnecessary for SMR systems as the systems do not have market power, offer a limited interconnect service, do not control a bottleneck, and customers have many alternatives for service.

III. CONCLUSION

WHEREFORE, the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

NATIONAL ASSOCIATION OF BUSINESS  
AND EDUCATIONAL RADIO, INC.

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